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KARL MORELL

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August 22, 2005

214572

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Suite 715
Washington, DC 20423-0001

FILED

AUG 22 2005

TRANSPORTATION BOARD

Re: Finance Docket No. 34746, Kansas & Oklahoma Railroad, Inc. —
Acquisition Exemption — Union Pacific Railroad Company

Dear Secretary Williams:

Attached for filing are the original and ten copies of a Verified Notice of Exemption under 49 C.F.R. 1150.41 and a check covering the \$1,500 filing fee. Also enclosed is a 3.5-inch diskette containing the Notice and Summary.

Please time and date stamp the extra copy of the Notice of Exemption and return it with our messenger.

If you have any questions regarding this matter, please contact me.

FILED

AUG 22 2005

TRANSPORTATION BOARD

Sincerely,

Karl Morell

Enclosures

ENTERED
Office of Proceedings

AUG 22 2005

Part of
Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

214572

FINANCE DOCKET NO. 34746

KANSAS & OKLAHOMA RAILROAD, INC.
--ACQUISITION EXEMPTION--
UNION PACIFIC RAILROAD COMPANY

ENTERED
Office of Proceedings

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Public Record

VERIFIED NOTICE OF EXEMPTION
Pursuant to 49 C.F.R. § 1150.41, Et Seq.

FILED
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SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
AUG 22 2005
SURFACE
TRANSPORTATION BOARD

KARL MORELL
Of Counsel
BALL JANIK LLP
Suite 225
1455 F Street, N.W.
Washington, D.C. 20005
(202) 638-3307

Attorneys for:
KANSAS & OKLAHOMA RAILROAD,
INC.

Dated: August 22, 2005

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34746

KANSAS & OKLAHOMA RAILROAD, INC.
--ACQUISITION EXEMPTION--
UNION PACIFIC RAILROAD COMPANY

VERIFIED NOTICE OF EXEMPTION
Pursuant to 49 C.F.R. § 1150.41, Et Seq.

Kansas & Oklahoma Railroad, Inc. ("K&O"), a Class III rail carrier, files this Notice of Exemption pursuant to 49 C.F.R. Part 1150, Subpart E--Exempt Transactions Under 49 U.S.C. 10902, to permit K&O to acquire a 27-mile rail line from the Union Pacific Railroad Company ("UP").

In support of this Notice of Exemption, K&O submits the following information as required by 49 C.F.R. § 1150.43:

(a) Full name and address of applicant:

Kansas & Oklahoma Railroad, Inc.
315 West 3rd Street
Pittsburg, Kansas 66762

(b) Applicant's Representative:

Karl Morell
Of Counsel
BALL JANIK LLP
Suite 225
1455 F Street, N.W.
Washington, DC 20005
(202) 638-3307

(c) Statement of Agreement:

K&O will shortly enter into an agreement with UP for the acquisition of the rail line.

(d) The operator of the property:

K&O will be the operator of the property.

(e) Summary of proposed transaction:

(1) The name and address of the railroad selling the subject property is:

Union Pacific Railroad Company
1400 Douglas Street
Omaha, Nebraska 68179

(2) K&O's acquisition of the rail line is expected to be consummated shortly after the effective date of this notice of exemption.

(3) The rail line being acquired from UP by K&O is located between Milepost 485.0, at Newton, KS and Milepost 512.0, at McPherson, KS (the "Line").

In September 2002, K&O leased the Line from UP and has been the sole operator over the Line for nearly three years. See STB Finance Docket

No. 34232, *Kansas & Oklahoma Railroad, Inc. – Lease Exemption –*

Union Pacific Railroad Company (not printed), served October 1, 2002.

(4) The length of the rail line being acquired is 27 miles.

(f) A map of the rail line being acquired is attached as Exhibit A.

(g) K&O hereby certifies that K&O's projected revenues as a result of this transaction will not result in K&O becoming a Class II or Class I rail carrier.

K&O's current annual revenue exceeds \$5 million. Accordingly, the notice requirements of 49 C.F.R. § 1150.42(e) are applicable to this transaction. K&O is concurrently filing a Petition seeking waiver of the Section 1150.42(e) notice requirements because K&O has been the sole operator of the Line for nearly three years and K&O intends to continue operating and maintaining the Line as in the past. Consequently, no employees of UP or K&O will be impacted by this transaction.

A caption summary, as required by 49 C.F.R. § 1150.44, is attached.

ENVIRONMENTAL AND HISTORIC IMPACTS

K&O is acquiring the line from UP for continued rail operations. Further Board approval is required for K&O to abandon any service and there are no plans to dispose of or alter properties subject to Board jurisdiction that are 50 years old or older. Hence, this Notice of Exemption does not require an historic report under 49 C.F.R. § 1105.8(b)(1).

K&O's acquisition will not result in significant changes in carrier operations. There will not be a diversion of: (1) more than 1,000 rail carloads a year to motor carriage; or (2) an average of 50 carloads per mile per year for any part of this line to motor carriage. This transaction will not result in: (1) an increase in rail traffic of at least 100 percent or an increase of at least eight trains a day on any segment of the line; (2) an increase of rail yard activity of at least 100 percent; or (3) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day. K&O's acquisition of the rail line will not affect a Class I or nonattainment area under the Clean Air Act. In any event, the thresholds of 49 C.F.R. § 1105.7(e)(5)(ii) will not

be exceeded. Finally, the transportation of ozone depleting materials is not contemplated.

Therefore, no environmental documentation is required under 49 C.F.R. § 1105.6(c)(2).

This action will not significantly affect either the quality of the human environment or energy conservation.

Respectfully submitted,

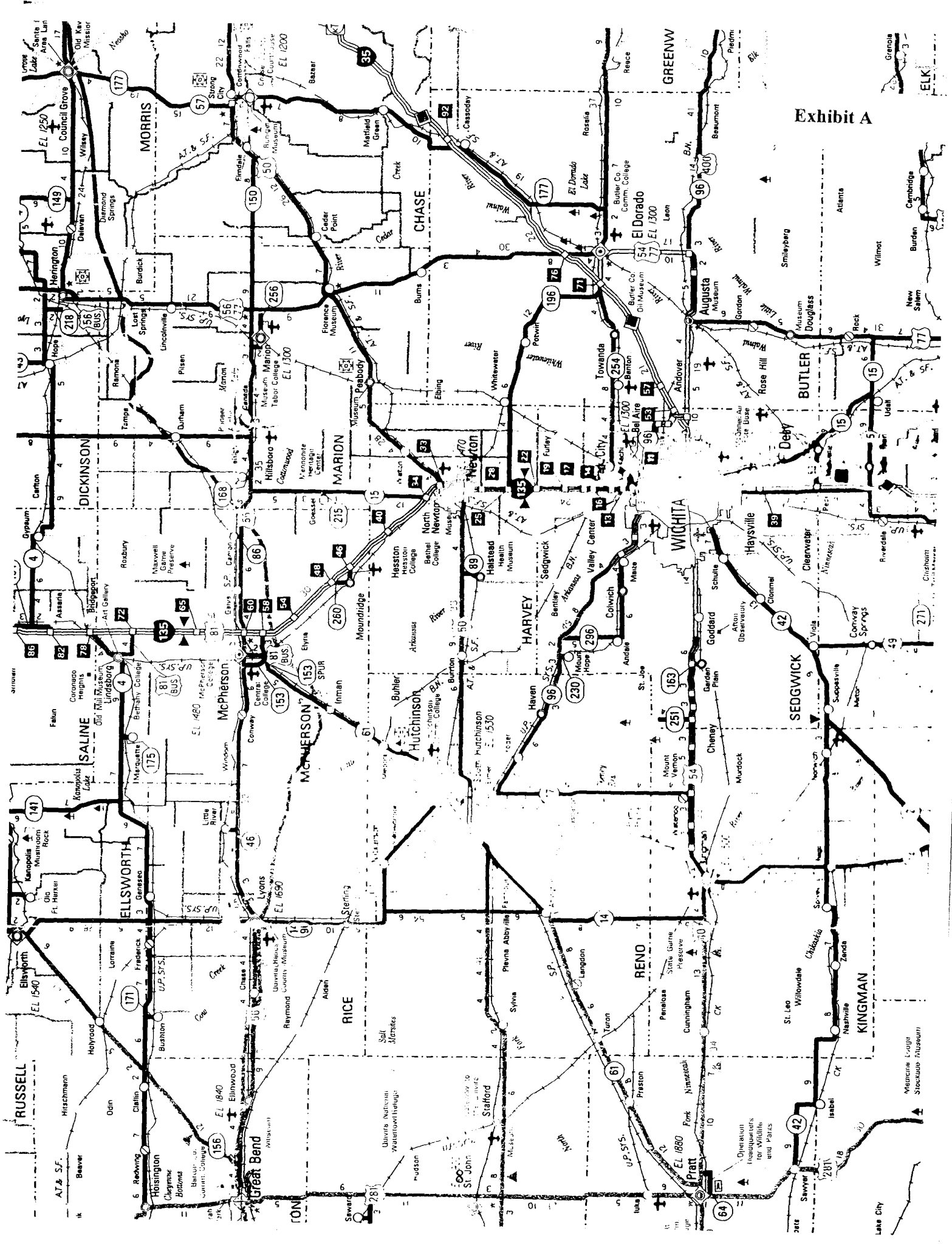
A handwritten signature in cursive script, appearing to read "Karl Morell", is written over a horizontal line.

KARL MORELL
Of Counsel
BALL JANIK LLP
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1455 F Street, N.W.
Washington, DC 20005
(202) 638-3307

Attorneys for:
KANSAS & OKLAHOMA RAILROAD, INC.

Dated: August 22, 2005

Exhibit A



SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

FINANCE DOCKET NO. 34746

KANSAS & OKLAHOMA RAILROAD, INC.

--ACQUISITION EXEMPTION--

UNION PACIFIC RAILROAD COMPANY

Kansas & Oklahoma Railroad, Inc., a Class III rail carrier, has filed a notice of exemption to acquire from Union Pacific Railroad Company ("UP") the rail line located between Milepost 485.0, at Newton, Kansas, and Milepost 512.0, at McPherson, Kansas.

Comments must be filed with the Board and served on Karl Morell, Of Counsel, BALL JANIK LLP, Suite 225, 1455 F Street, N.W., Washington, DC 20005, (202) 638-3307.

This notice is filed under 49 C.F.R. 1150.41. If the notice contains false or misleading information, the exemption is void ab initio. The filing of a petition to revoke will not automatically stay the transaction.

VERIFICATION

STATE OF KANSAS)
) ss.
COUNTY OF CRAWFORD)

I, Arthur E. McKechnie III, being duly sworn depose and state that I am Assistant Secretary of the Kansas & Oklahoma Railroad, Inc., that I am authorized to make this verification, and that I have read the foregoing Notice of Exemption and know the facts asserted therein are true and accurate as stated to the best of my knowledge, information, and belief.

Arthur E. McKechnie III

SUBSCRIBED AND SWORN TO before me this 20th day of August, 2005, in the County of Crawford, State of Kansas.

My Commission Expires: 11-12-2008

James Hanson
Notary Public